

109TH CONGRESS  
2D SESSION

# H. R. 4968

To provide for the expeditious disclosure of records relevant to the life  
and death of Tupac Amaru Shakur.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2006

Ms. MCKINNEY introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for the expeditious disclosure of records relevant  
to the life and death of Tupac Amaru Shakur.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Tupac Shakur Records Release Act of 2006”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings, declarations, and purposes.
- Sec. 3. Definitions.
- Sec. 4. Tupac Amaru Shakur Records Collection at the National Archives.

- Sec. 5. Citizens Advisory Committee.
- Sec. 6. Review, identification, transmission to the National Archives, and public disclosure of related records by Government offices.
- Sec. 7. Postponement of public disclosure of records.
- Sec. 8. Review of records by Archivist.
- Sec. 9. Disclosure of materials under seal of court.
- Sec. 10. Private right of action.
- Sec. 11. Rules of construction.
- Sec. 12. Authorization of appropriations.
- Sec. 13. Records pending.
- Sec. 14. Whistleblower protection.
- Sec. 15. Severability.

1 **SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.**

2 (a) FINDINGS AND DECLARATIONS.—The Congress  
3 finds and declares that—

4 (1) all Government records related to the life  
5 and death of Tupac Amaru Shakur should be pre-  
6 served for historical and governmental purposes;

7 (2) all Government records concerning the life  
8 and death of Tupac Amaru Shakur should carry a  
9 presumption of immediate disclosure, and all records  
10 should be eventually disclosed to enable the public to  
11 become fully informed about the history surrounding  
12 his life and death;

13 (3) legislation is necessary to create an enforce-  
14 able, independent, and accountable process for the  
15 public disclosure of such records;

16 (4) legislation is necessary because Government  
17 records related to the life and death of Tupac  
18 Amaru Shakur would not otherwise be subject to  
19 public disclosure;

1           (5) legislation is necessary because the Freedom  
2           of Information Act, as implemented by the executive  
3           branch, is not sufficient to ensure the timely public  
4           disclosure of records relating to the life and death  
5           of Tupac Amaru Shakur; and

6           (6) only in the rarest cases is there any legiti-  
7           mate need for continued protection of such records.

8           (b) PURPOSES.—The purposes of this Act are—

9           (1) to provide for the creation of the Tupac  
10          Amaru Shakur Records Collection at the National  
11          Archives and a second repository at the Tupac  
12          Amaru Shakur Center for the Arts in Stone Moun-  
13          tain, Georgia; and

14          (2) to require the expeditious public trans-  
15          mission to the Archivist and public disclosure (in-  
16          cluding by electronic means) of such records.

17   **SEC. 3. DEFINITIONS.**

18          In this Act, the following definitions apply:

19          (1) The term “Archivist” means the Archivist  
20          of the United States.

21          (2) The term “Citizens Advisory Committee”  
22          means the Citizens Advisory Committee appointed  
23          under section 5.

1           (3) The term “Collection” means the Tupac  
2   Amaru Shakur Records Collection established under  
3   section 4.

4           (4) The term “Executive agency” means an Ex-  
5   ecutive agency as defined in subsection 552(f) of  
6   title 5, United States Code, and includes any Execu-  
7   tive department, military department, Government  
8   corporation, Government controlled corporation, or  
9   other establishment in the executive branch of the  
10   Government, including the Executive Office of the  
11   President, or any independent regulatory agency.

12          (5) The term “Government office” includes—

13               (A) all current, past, and former depart-  
14               ments, agencies, offices, divisions, foreign of-  
15               fices, bureaus, and deliberative bodies of any  
16               Federal, State, or local government and in-  
17               cludes all inter- or intra-agency working groups,  
18               committees, and meetings that possess or cre-  
19               ated records relating to the life and death of  
20               Tupac Amaru Shakur; and

21               (B) any office of the Federal Government  
22               that has possession or control of related  
23               records, including any executive branch office or  
24               agency, and any independent agency.

1           (6) The term “identification aid” means the  
2       written description prepared by the Archivist for  
3       each record as required by section 6.

4           (7) The term “National Archives” means the  
5       National Archives and all components thereof, in-  
6       cluding Presidential archival depositories established  
7       under section 2112 of title 44, United States Code.

8           (8) The term “official investigation” means the  
9       reviews of the activities or death of Tupac Amaru  
10      Shakur conducted by any Federal, State or local  
11      agency either independently, or at the request of any  
12      Government official.

13          (9) The term “originating body” means the Ex-  
14      ecutive agency or other governmental entity that cre-  
15      ated a record or particular information within a  
16      record.

17          (10) The term “public interest” means the  
18      compelling interest in the prompt public disclosure  
19      of related records for historical and governmental  
20      purposes and for the purpose of fully informing the  
21      American people about the history surrounding the  
22      life and death of Tupac Amaru Shakur

23          (11) The term “record” includes a book, paper,  
24      map, photograph, sound or video recording, machine  
25      readable material, computerized, digitized, or elec-

1       tronic information, regardless of the medium on  
2       which it is stored, or other documentary material or  
3       physical evidence or artifact regardless of its phys-  
4       ical form or characteristics.

5           (12) The term “related record” includes all  
6       public records, regardless of how labeled or identi-  
7       fied, that document, describe, report on, analyze or  
8       interpret activities, persons, or events reasonably re-  
9       lated to the life and death of Tupac Amaru Shakur  
10      and investigations of or inquiries into his life or  
11      death, including a record—

12           (A) that was created or made available for  
13      use by, obtained by, or otherwise came into the  
14      possession of—

15                   (i) any Executive agency;

16                   (ii) any independent agency;

17                   (iii) any Government office; or

18                   (iv) any State or local law enforce-  
19      ment office that provided support or assist-  
20      ance or performed work in connection with  
21      any Government inquiry into the life and  
22      death of Tupac Amaru Shakur; or

23           (B) that is any of the following:

24                   (i) A record created in the course of  
25      a Federal, State, or local governmental in-

1 vestigation that is no longer in possession  
2 of the Federal, State, or local government.

3 (ii) A record located at, or under the  
4 control of—

5 (I) record repositories and ar-  
6 chives of a Federal, State, or local  
7 government;

8 (II) an individual who possesses  
9 the record by virtue of service with a  
10 Government office;

11 (III) a person, including an indi-  
12 vidual or corporation, who obtained  
13 such record from Government sources  
14 or individuals identified in this Act; or

15 (IV) a person, including an indi-  
16 vidual or corporation, who created or  
17 has obtained such record from sources  
18 other than those identified in this  
19 clause.

20 (iii) A record of a Federal or State  
21 criminal or civil court, including a record  
22 under seal released in accordance with sec-  
23 tion 9.

24 (iv) A record generated by a foreign  
25 government.

1 (v) A record in possession of a con-  
2 tractor of the Federal Government.

3 (vi) All records collected by or seg-  
4 regated by all Federal, State, and local  
5 government agencies in conjunction with  
6 any investigation or analysis of or inquiry  
7 into the life and death of Tupac Amaru  
8 Shakur, including any intra-agency inves-  
9 tigation or analysis, any interagency com-  
10 munications, or any intra-agency collection  
11 or segregation of documents and other ma-  
12 terials regarding the life and death of  
13 Tupac Amaru Shakur.

14 (vii) All documents used by Govern-  
15 ment offices and agencies during their de-  
16 classification review of related records as  
17 well as all other documents, indices, and  
18 other material, including but not limited to  
19 those that disclose cryptonyms, code  
20 names, or other identifiers that appear in  
21 related records that would reasonably con-  
22 stitute a related record or would assist in  
23 the identification, evaluation, or interpreta-  
24 tion of a related record, including—



1 (I) with respect to records that  
2 are identified with respect to a par-  
3 ticular person, all records relating to  
4 that person that use or reflect the  
5 true name or any other name, pseu-  
6 donym, codeword, symbol, number,  
7 cryptonym, or alias used to identify  
8 that person;

9 (II) with respect to records that  
10 are identified with respect to a par-  
11 ticular operation or program, all  
12 records pertaining to that program by  
13 any other name, pseudonym,  
14 codeword, symbol, number, or  
15 cryptonym; and

16 (III) any other record that does  
17 not fall within the scope of a related  
18 record as described in the Act, but  
19 which has the potential to enhance,  
20 enrich, and broaden the historical  
21 record of the life and death of Tupac  
22 Amaru Shakur.

23 (13) The term “third agency” means a Govern-  
24 ment agency that originated a related record that is  
25 in the possession of another agency.

1 **SEC. 4. TUPAC AMARU SHAKUR RECORDS COLLECTION AT**  
2 **THE NATIONAL ARCHIVES.**

3 (a) IN GENERAL.—(1) Not later than 60 days after  
4 the date of enactment of this Act, the National Archives  
5 shall commence establishment of a collection of records to  
6 be known as the “Tupac Amaru Shakur Records Collec-  
7 tion.” In so doing, the Archivist shall ensure the physical  
8 integrity and original provenance of all records. The Col-  
9 lection shall consist of originals or record copies of all Gov-  
10 ernment records relating to the life and death of Tupac  
11 Amaru Shakur, which shall be transmitted to the National  
12 Archives in accordance with section 2107 of title 44,  
13 United States Code. The Archivist shall prepare and pub-  
14 lish a subject guidebook and index to the collection, includ-  
15 ing the central directory described in paragraph (2)(B),  
16 which shall be available to the public and searchable elec-  
17 tronically.

18 (2) The Collection shall include—

19 (A) all related records—

20 (i) that have been transmitted to the Na-  
21 tional Archives or disclosed to the public in an  
22 un-redacted form prior to the date of enactment  
23 of this Act, or were so transmitted or disclosed  
24 and reclassified prior to such date of enact-  
25 ment;

1 (ii) that are required to be transmitted to  
2 the National Archives;

3 (iii) the disclosure of which is postponed  
4 under this Act; or

5 (iv) that meets the definition of a related  
6 record but is discovered after completion of the  
7 record review under section 6(c) or termination  
8 of activities of the Archivist under this Act  
9 under section 8(f); and

10 (B) a central directory comprised of identifica-  
11 tion aids created for each record transmitted to the  
12 Archivist under section 6.

13 (b) USE OF SECONDARY LOCATION FOR PORTION OF  
14 COLLECTION.—

15 (1) IN GENERAL.—The Archivist shall enter  
16 into an agreement with the Tupac Amaru Shakur  
17 Center for the Arts in Stone Mountain, Georgia, or  
18 another location agreed to by the family of Tupac  
19 Shakur, for the establishment of a secondary loca-  
20 tion for a complete copy of an appropriate portion  
21 (not including physical artifacts) of the Collection—

22 (A) which will provide a maximum level of  
23 public access to copies of the portion of the Col-  
24 lection involved; and

1 (B) which will encourage continuing study  
2 and education regarding the life and death of  
3 Tupac Amaru Shakur.

4 (2) TREATMENT OF COLLECTION AT SEC-  
5 ONDARY LOCATION.—The copies of the portion of  
6 the Collection maintained at the secondary location  
7 pursuant to this subsection, and the entity respon-  
8 sible for maintaining such copies of the collection  
9 under the agreement entered into under this sub-  
10 section, shall be subject to the same terms, condi-  
11 tions, and requirements as apply under this Act to  
12 the portion of the Collection maintained at the Na-  
13 tional Archives and the Archivist.

14 (c) AVAILABILITY OF COLLECTION AT ARCHIVES AND  
15 ELECTRONICALLY.—Each item in the Collection (as de-  
16 scribed in subsection (a)(2)), other than an artifact or a  
17 record the disclosure of which is postponed under this Act,  
18 shall be available to the public for inspection and copying  
19 at the National Archives and through an electronic format  
20 within 30 days after its transmission to the National Ar-  
21 chives.

22 (d) FEES FOR COPYING.—The Archivist shall—

23 (1) charge fees for copying such records; and

1           (2) grant waivers of such fees pursuant to the  
2           standards established by section 552(a)(4) of title 5,  
3           United States Code.

4           (e) ADDITIONAL REQUIREMENTS.—(1) The Collec-  
5           tion shall be preserved, protected, archived, and made  
6           available to the public at the National Archives.

7           (2) Whenever artifacts are included in the Collection,  
8           it shall be sufficient to comply with this Act if the public  
9           is provided with access to photographs, drawings, or simi-  
10          lar materials depicting the artifacts. Additional display,  
11          examination, or testing by the public of artifacts in the  
12          Collection shall occur if there is a reasonable claim that  
13          such examination or testing will reveal aspects of the arti-  
14          fact that cannot be determined from such photographs or  
15          depictions, and shall occur under the terms and conditions  
16          established by the National Archives to ensure their pres-  
17          ervation and protection for prosperity.

18          (3) The National Archives, in consultation with its  
19          Information Security Oversight Office, shall ensure the se-  
20          curity of the records in the Collection that qualify for post-  
21          ponement of public disclosure pursuant to section 7.

22   **SEC. 5. CITIZENS ADVISORY COMMITTEE.**

23          (a) APPOINTMENT.—Not later than 60 days after the  
24          date of enactment of this Act, the Archivist shall appoint  
25          an independent Citizens Advisory Committee, subject to

1 the Federal Advisory Committee Act (5 U.S.C. App.) from  
2 candidates solicited from and nominated not later than 30  
3 days after the date of the enactment of this Act by non-  
4 governmental organizations from the Society of American  
5 Archivists, the National Bar Association, the Black Cau-  
6 cus of the American Library Association, Inc., the Na-  
7 tional Conference of Black Political Scientists, and the  
8 civil rights, civil liberties, entertainment and African  
9 American communities, which shall consist of ap-  
10 pointees—

11 (1) who have not had any previous involvement  
12 with any official investigations into the life and  
13 death of Tupac Amaru Shakur;

14 (2) who were never employed or engaged by any  
15 Federal, State, or local intelligence or law enforce-  
16 ment agency that generated or that is required to  
17 transmit to the Archivist under section 6 any related  
18 record;

19 (3) who shall be impartial private citizens, none  
20 of whom is presently employed by any branch of the  
21 Government;

22 (4) who shall be distinguished persons of high  
23 national professional reputation in their respective  
24 fields who are capable of exercising the independent  
25 and objective judgment necessary to the fulfillment

1 of their role in ensuring and facilitating the review,  
2 transmission to the public, and public disclosure of  
3 records related to the life and death of Tupac  
4 Shakur;

5 (5) who possess an appreciation of the value of  
6 such material to the public, scholars, and govern-  
7 ment; and

8 (6) who include at least 3 scholars in current  
9 history, at least 3 members of the civil rights com-  
10 munity, at least 3 experts on civil liberties, and at  
11 least one member of the immediate family of Tupac  
12 Amaru Shakur.

13 (b) NOMINATIONS.—

14 (1) If an organization described in subsection  
15 (a) does not recommend at least 2 nominees meeting  
16 the qualifications stated in that subsection, by the  
17 date that is 45 days after the date of enactment of  
18 this Act, the Archivist shall consider for nomination  
19 the persons recommended by the other organizations  
20 or communities described in subsection (a).

21 (2) The Archivist may request an organization  
22 described in subsection (a) to submit additional  
23 nominations.

24 (c) COMPENSATION.—The Citizens Advisory Com-  
25 mittee shall not be compensated, but shall meet at its dis-

1 cretion at least twice each year to advise and assist the  
2 Archivist in the full implementation of this Act, includ-  
3 ing—

4           (1) suggestions to assist in the location of all  
5       related records,

6           (2) review of the public reasons for postpone-  
7       ment decisions and appeals regarding related  
8       records,

9           (3) recommendations for subpoena of records or  
10      enforcement of the Act,

11          (4) evaluations regarding cooperation of Gov-  
12      ernment agencies and entities, and

13          (5) participation in annual reviews and reports  
14      by the Archivist.

15      (d) VACANCY.—A vacancy on the Citizens Advisory  
16      Committee shall be filled in the same manner as specified  
17      for original appointment within 30 days after the occur-  
18      rence of the vacancy. Nominations for a vacancy shall be  
19      made by the organizations and communities described in  
20      subsection (a).

21      (e) CHAIRPERSON.—The Members of the Citizens  
22      Advisory Committee shall elect one of its members as  
23      chairperson at its initial meeting.

24      (f) REMOVAL OF CITIZENS ADVISORY COMMITTEE  
25      MEMBER.—



1           (1) IN GENERAL.—No member of the Citizens  
2       Advisory Committee shall be removed from office,  
3       other than—

4                   (A) by impeachment and conviction; or

5                   (B) by the action of the Archivist for inef-  
6       ficiency, neglect of duty, malfeasance in office,  
7       physical disability, mental incapacity, failure to  
8       meet, falsification of any qualifications under  
9       subsection (a)(1), or any other condition that  
10      substantially impairs the performance of the  
11      member's duties.

12       (2) REPORT.—

13               (A) FACTS AND GROUNDS.—If a member  
14      of the Citizens Advisory Committee is removed  
15      from office, and that removal is by the Archi-  
16      vist, not later than 10 days after the removal  
17      the Archivist shall submit to the Committee on  
18      Government Reform of the House of Represent-  
19      atives and the Committee on Homeland Secu-  
20      rity and Governmental Affairs of the Senate a  
21      report specifying the facts found and the  
22      grounds for the removal.

23               (B) PUBLICATION.—The Archivist shall  
24      publish in the Federal Register a report sub-  
25      mitted under paragraph (2), except that the Ar-

chivist may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3) JUDICIAL REVIEW.—

(A) CIVIL ACTION.—A member of the Citizens Advisory Committee removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) REINSTATEMENT.—The member may be reinstated or granted other appropriate relief by order of the court.

**SEC. 6. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF RELATED RECORDS BY GOVERNMENT OFFICES.**

(a) IN GENERAL.—

(1) PREPARATION FOR REVIEW.—As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the life and death of Tupac

1       Amaru Shakur and prepare them for transmission to  
2       the Archivist for inclusion in the Collection.

3               (2) DETERMINATION OF USE OF ORIGINALS OR  
4       COPIES.—

5               (A) For purposes of determining whether  
6       originals or copies of related records are to be  
7       made part of the Collection established under  
8       this Act, the following shall apply:

9               (i) In the case of papers, maps, and  
10       other documentary materials, the Archivist  
11       may determine that record copies of Gov-  
12       ernment records, either the signed original,  
13       original production, or a reproduction that  
14       has been treated as the official record  
15       maintained to chronicle government func-  
16       tions or activities may be placed in the  
17       Collection.

18              (ii) In the case of other papers, maps,  
19       and other documentary material, the Ar-  
20       chivist may determine that a true and ac-  
21       curate copy of a record in lieu of the origi-  
22       nal may be placed in the Collection.

23              (iii) In the case of photographs, the  
24       original negative, whenever available (oth-  
25       erwise the nearest generation print that is

1 a true and accurate copy), may be placed  
2 in the Collection.

3 (iv) In the case of motion pictures,  
4 the camera original, whenever available  
5 (otherwise the earliest generation print  
6 that is a true and accurate copy) may be  
7 placed in the Collection.

8 (v) In the case of sound and video re-  
9 cordings, the original recording, whenever  
10 available (otherwise the earliest generation  
11 copy that is a true and accurate copy) may  
12 be placed in the Collection.

13 (vi) In the case of machine-readable  
14 information, a true and accurate copy of  
15 the original (duplicating all information  
16 contained in the original and in a format  
17 that permits retrieval of the information)  
18 may be placed in the Collection.

19 (vii) In the case of artifacts, the origi-  
20 nal objects themselves shall be placed in  
21 the Collection at the National Archives.

22 (B) To the extent records from foreign  
23 governments are included in the Collection, cop-  
24 ies of the original records shall be sufficient for  
25 inclusion in the Collection.

1           (C) In cases where a copy, as defined in  
2           subparagraph (D), is authorized by the Archi-  
3           vist to be included in the Collection, the Archi-  
4           vist may require that a copy be certified if, in  
5           the discretion of the Archivist, the Archivist de-  
6           termines a certification to be necessary to en-  
7           sure the integrity of the Collection. In cases  
8           where an original, as defined in subparagraph  
9           (A), is required for inclusion in the Collection,  
10          the Archivist may, at the discretion of the Ar-  
11          chivist, accept the best available copy. In such  
12          cases that records included in the Collection,  
13          whether originals or copies, contain illegible  
14          portions, such records shall have attached  
15          thereto a certified transcription of the illegible  
16          language to the extent practicable.

17          (D) For purposes of implementing this  
18          Act, the term “copy” means true and accurate  
19          photocopy duplication by a means appropriate  
20          to the medium of the original record that pre-  
21          serves and displays the integrity of the record  
22          and the information contained in it.

23          (E) Nothing in this paragraph shall be in-  
24          terpreted to suggest that additional copies of  
25          any related records contained in the Collection

1 are not also related records that may also be  
2 placed in the Collection.

3 (F) Nothing in this paragraph shall be in-  
4 terpreted to prevent or to preclude copies of any  
5 electronic related records from being refor-  
6 matted electronically in order to conform to dif-  
7 ferent hardware or software requirements of  
8 audiovisual or machine-readable formats if such  
9 is the professional judgment of the National Ar-  
10 chives.

11 (3) RELATED RECORDS.—In carrying out this  
12 section, a Government office may not destroy, alter,  
13 or mutilate in any way a related record.

14 (4) PRIOR DISCLOSURE.—

15 (A) Except as provided in subparagraph  
16 (B), in carrying out this section, a Government  
17 office may not withhold, redact, postpone for  
18 public disclosure, or reclassify a related record  
19 that was made available or disclosed to the pub-  
20 lic prior to the date of enactment of this Act.

21 (B) For purposes of subparagraph (A), a  
22 Government office may withhold names or iden-  
23 tifies, consistent with the requirements of sec-  
24 tion 6, in a related record created by a person  
25 or entity outside government.

1 (b) CUSTODY OF RELATED RECORDS PENDING RE-  
2 VIEW.—During the review by a Government office, the  
3 Government office shall retain custody of its related  
4 records for purposes of preservation, security, and effi-  
5 ciency, unless—

6 (1) any oversight Committee requires the phys-  
7 ical transfer of records for purposes of conducting  
8 an independent and impartial review;

9 (2) it is a third agency record described in sub-  
10 section (c)(2)(C); or

11 (3) any other records are transferred to the Ar-  
12 chives for public disclosure.

13 (c) REVIEW.—

14 (1) IN GENERAL.—Not later than 180 days  
15 after the date of enactment of this Act, each Gov-  
16 ernment office shall review each related record in its  
17 custody or possession in accordance with paragraph  
18 (2).

19 (2) RELATED RECORDS.—In carrying out para-  
20 graph (1), a Government office shall—

21 (A) determine which of its records are re-  
22 lated records;

23 (B) determine which of its related records  
24 have been officially disclosed or publicly avail-  
25 able in a complete and un-redacted form;

1           (C)(i) determine which of its related  
2 records, or particular information contained in  
3 such a record, was created by a third agency or  
4 by another Government office; and

5           (ii) transmit to a third agency or other  
6 Government office those records, or particular  
7 information contained in those records, or com-  
8 plete and accurate copies thereof;

9           (D)(i) determine whether its related  
10 records or particular information in related  
11 records are covered by the standards for post-  
12 ponement of public disclosure under this Act;  
13 and

14          (ii) specify on the identification aid re-  
15 quired by subsection (d) the applicable post-  
16 ponement provision contained in section 7;

17          (E) organize and make available to the Ar-  
18 chivist all related records identified under sub-  
19 paragraph (D) the public disclosure of which in  
20 whole or in part may be postponed under this  
21 Act;

22          (F) organize and make available to the Ar-  
23 chivist any record concerning which the office  
24 has any uncertainty as to whether the record is  
25 a related record governed by this Act;



1 (G) give priority to—

2 (i) the identification, review, and  
3 transmission of all related records publicly  
4 available or disclosed as of the date of en-  
5 actment of this Act in a redacted or edited  
6 form; and

7 (ii) the identification, review, and  
8 transmission, under the standards for post-  
9 ponement set forth in this Act, of related  
10 records that on the date of enactment of  
11 this Act are the subject of litigation under  
12 section 552 of title 5, United States Code;  
13 and

14 (H) make available to the National Ar-  
15 chives any additional information and records  
16 that the Archivist has reason to believe it re-  
17 quires for conducting a review under this Act,  
18 including the following:

19 (i) All training manuals, instructional  
20 materials, and guidelines created or used  
21 by the Government office in furtherance of  
22 its review of related records.

23 (ii) All records, lists, and documents  
24 describing the procedure by which the of-

1            office identified or selected related records  
2            for review.

3            (iii) Organizational charts of the of-  
4            fice.

5            (iv) Records necessary and sufficient  
6            to describe the office's—

7                    (I) records policies and schedules;

8                    (II) filing systems and organiza-  
9                    tion;

10                   (III) storage facilities and loca-  
11                   tions;

12                   (IV) indexing symbols, marks,  
13                   codes, instructions, guidelines, meth-  
14                   ods, and procedures; and

15                   (V) search methods and proce-  
16                   dures used in the performance of the  
17                   duties of the office under this Act.

18            (v) Reclassification to a higher level,  
19            transfer, destruction, or other information  
20            (e.g., theft) regarding the status of related  
21            records.

22            (d) IDENTIFICATION AIDS.—

23                    (1) IN GENERAL.—

24                    (A) STANDARD FORM.—Not later than 45  
25                    days after the date of enactment of this Act,

1 the Archivist, in consultation with the appro-  
2 priate Government offices, shall prepare and  
3 make available to all Government offices a  
4 standard form of identification or finding aid  
5 for use with each related record subject to re-  
6 view under this Act.

7 (B) UNIFORM SYSTEM.—The Archivist  
8 shall ensure that the identification aid program  
9 is established in such a manner as to result in  
10 the creation of a uniform system of electronic  
11 records by Government offices that are compat-  
12 ible with each other and which shall be made  
13 publicly available and searchable electronically.

14 (2) PRINTED COPIES.—Upon completion of an  
15 identification aid under paragraph (1) by the Archi-  
16 vist, a Government office shall—

17 (A) attach a printed copy of the identifica-  
18 tion aid describing a related record to the re-  
19 lated record it describes;

20 (B) when a related record is transmitted to  
21 the Archivist pursuant to subsection (e), include  
22 with the related record such printed copy of the  
23 identification aid, including an indication of  
24 whether the record is to be made available im-

1           mediately to the public or recommended for  
2           postponement; and

3           (C) make available to the public electroni-  
4           cally each identification aid describing a related  
5           record, whether or not the record is made avail-  
6           able to the public.

7       (e) TRANSMISSION TO THE NATIONAL ARCHIVES.—  
8       Each Government office shall—

9           (1) transmit to the Archivist, and make imme-  
10          diately available to the public, all related records  
11          that can be publicly disclosed, including those that  
12          are publicly available on the date of enactment of  
13          this Act, without any redaction, adjustment, or with-  
14          holding under the standards of this Act; and

15          (2) transmit to the Archivist all related records  
16          the public disclosure of which the office recommends  
17          be postponed, in whole or in part, under the stand-  
18          ards of section 7, to become part of the protected  
19          Collection.

20       (f) PUBLICLY AVAILABLE RECORDS.—Related  
21       records which are in the possession of the National Ar-  
22       chives on the date of enactment of this Act, and which  
23       have been publicly available in their entirety without re-  
24       daction, shall be made available in the Collection without

1 any additional review by any authorized office under this  
2 Act.

3 (g) RECORD AVAILABILITY.—The National Archives  
4 and Executive branch agencies shall—

5 (1) charge fees for copying related records;

6 (2) grant waivers of such fees pursuant to the  
7 standards established by section 552(a)(4) of title 5,  
8 United States Code;

9 (3) permit, when not deemed a risk by the Ar-  
10 chivist, the use of personal copying devices, includ-  
11 ing, but not limited to, portable scanners, digital  
12 cameras, and the like; and

13 (4) make available to the public electronic  
14 versions of related records, identification aids, and  
15 indexes.

16 **SEC. 7. POSTPONEMENT OF PUBLIC DISCLOSURE OF**  
17 **RECORDS.**

18 (a) GROUNDS FOR POSTPONEMENT.—Disclosure of  
19 related records or particular information in related records  
20 to the public may be postponed on the request of an Exec-  
21 utive agency or Government office, only after a review and  
22 decision by the Archivist, and subject to the limitations  
23 of this Act if there is clear and convincing evidence that—

24 (1) the threat, as of the time the postponement  
25 decision is made, to the military defense, intelligence

1 operations, or conduct of foreign relations of the  
2 United States posed by the public disclosure of the  
3 related record is of such gravity that it outweighs  
4 the public interest, and such public disclosure would  
5 reveal—

6 (A) a living intelligence agent whose iden-  
7 tity currently requires protection;

8 (B) an intelligence source or method which  
9 is currently utilized, or reasonably expected to  
10 be utilized, by the United States Government  
11 and which has not been officially disclosed, the  
12 disclosure of which would interfere with the  
13 conduct of intelligence activities; or

14 (C) any other matter currently relating to  
15 the military defense, intelligence operations, or  
16 conduct of foreign relations of the United  
17 States, the disclosure of which would demon-  
18 strably impair the national security of the  
19 United States;

20 (2) the public disclosure of the related record  
21 would reveal the name or identity of a living person  
22 who provided confidential information to the United  
23 States and would pose a substantial risk of harm to  
24 that person;

1           (3) the public disclosure of the related record  
2           could reasonably be expected to constitute an unwar-  
3           ranted invasion of a living person's personal privacy,  
4           and that invasion of privacy is so substantial that it  
5           outweighs the public interest; or

6           (4) the public disclosure of the related record  
7           would compromise the existence of an understanding  
8           of confidentiality currently requiring protection be-  
9           tween a Government agent and a living cooperating  
10          individual or a foreign government, and public dis-  
11          closure would be so harmful that it outweighs the  
12          public interest.

13       (b) CUSTODY OF POSTPONED RELATED RECORDS.—  
14   A related record the public disclosure of which has been  
15   challenged by an Executive agency or Government office  
16   may be postponed only by the Archivist but shall, pending  
17   transmission to the National Archives, be held for reasons  
18   of security and preservation by the originating body until  
19   such time as the information security program has been  
20   established at the National Archives as required by section  
21   4(e)(3).

22       (c) ANNUAL REVIEW OF POSTPONED RELATED  
23   RECORDS AND ADDITIONAL RELATED RECORDS.—(1) All  
24   postponed or redacted records shall be reviewed annually  
25   by the originating agency and the Archivist, consistent

1 with the standards under subsection (a). The annual re-  
2 views shall cease upon termination of activities of the Ar-  
3 chivist under this Act pursuant to section 8(g).

4 (2) An annual review shall address the public disclo-  
5 sure of any related records in the Collection, including any  
6 related records discovered since the preceding annual re-  
7 view in possession of any Federal, State, or local agency,  
8 Government office, organization, or person.

9 (3) All postponed related records determined to re-  
10 quire continued postponement shall require an unclassified  
11 written description of the record and the reason for such  
12 continued postponement. Such description shall be pro-  
13 vided to the Archivist and published in the Federal Reg-  
14 ister upon determination.

15 (4) All postponed records determined in an annual  
16 review to no longer require continued postponement shall  
17 be publicly disclosed in full and added to the Collection.

18 (d) REQUIREMENT TO DISCLOSE POSTPONED  
19 RECORDS.—Each related record shall be publicly disclosed  
20 in full, and available in the Collection not later than 1  
21 year after the termination of activities of the Archivist  
22 under this Act under section 8(f), or the date that is 3  
23 years after the date of the enactment of this Act, which-  
24 ever is earlier, unless the President certifies that contin-  
25 ued postponement is made necessary by—



1           (1) a current and identifiable harm to the mili-  
 2       tary defense, intelligence operations, law enforce-  
 3       ment, or conduct of foreign relations; and

4           (2) the identifiable harm is of such gravity that  
 5       it outweighs the public interest in disclosure.

6 **SEC. 8. REVIEW OF RECORDS BY ARCHIVIST.**

7       (a) REQUIREMENT FOR REVIEW.—The Archivist  
 8       shall conduct a review of related records in accordance  
 9       with this section.

10       (b) DEADLINES FOR START OF REVIEW.—The Archi-  
 11       vist shall—

12           (1) not later than 30 days after the date of ap-  
 13       pointment of the Citizens Advisory Committee, pub-  
 14       lish in the Federal Register a schedule for con-  
 15       ducting the review; and

16           (2) not later than 90 days after the date of ap-  
 17       pointment of the Citizens Advisory Committee, begin  
 18       the review.

19       (c) DETERMINATIONS OF THE ARCHIVIST RELATING  
 20       TO PUBLIC DISCLOSURE AND POSTPONEMENT.—

21           (1) PRESUMPTION OF RELEASE TO PUBLIC.—

22       The Archivist shall direct that all related records be  
 23       transmitted to the National Archives and disclosed  
 24       to the public in the Collection in the absence of clear  
 25       and convincing evidence that—

1 (A) a Government record is not a related  
2 record; or

3 (B) a Government record or particular in-  
4 formation within a related record qualifies for  
5 postponement of public disclosure under this  
6 Act.

7 (2) POWERS.—

8 (A) ARCHIVIST.—The Archivist shall have  
9 the authority to act in a manner prescribed  
10 under this Act including authority to—

11 (i) direct Government offices to com-  
12 plete identification aids and organize re-  
13 lated records;

14 (ii) direct Government offices to  
15 transmit to the National Archives related  
16 records as required under this Act, includ-  
17 ing segregable portions of related records,  
18 and substitutes and summaries of related  
19 records that can be publicly disclosed to  
20 the fullest extent;

21 (iii) obtain access to related records  
22 that have been identified and organized by  
23 a Government office;

1 (iv) receive information from the pub-  
2 lic regarding the identification and public  
3 disclosure of related records;

4 (v) hold hearings, administer oaths,  
5 and subpoena witnesses and documents;  
6 and

7 (vi) appoint liaisons to all Federal  
8 agencies that have created related records,  
9 or have related records in their possession.

10 (B) CITIZENS ADVISORY COMMITTEE.—

11 The Citizens Advisory Committee shall have the  
12 authority to act in a manner prescribed under  
13 this Act including authority to—

14 (i) direct a Government office to make  
15 available to the Citizens Advisory Com-  
16 mittee, and if necessary investigate the  
17 facts surrounding, additional information,  
18 records, or testimony from individuals,  
19 which the Citizens Advisory Committee has  
20 reason to believe is required to ensure full  
21 disclosure of related records and fulfill its  
22 functions and responsibilities under this  
23 Act;

24 (ii) request the Attorney General to  
25 subpoena private persons and State and

1 Federal employees to compel testimony  
2 and other information relevant to its re-  
3 sponsibilities under this Act;

4 (iii) require any Government office to  
5 account in writing for the previous destruc-  
6 tion of any records relating to the life or  
7 death of Tupac Amaru Shakur;

8 (iv) receive information from the pub-  
9 lic regarding the identification and public  
10 disclosure of related records; and

11 (v) hold hearings, administer oaths,  
12 and subpoena witnesses.

13 (C) ENFORCEMENT.—Any subpoena issued  
14 under provisions of this Act, by the Archivist or  
15 the Citizens Advisory Committee, may be en-  
16 forced by any appropriate Federal court acting  
17 pursuant to a lawful request.

18 (3) NOTICE OF RELATED RECORD DESIGNA-  
19 TION.—

20 (A) In determining to designate related  
21 records, the Archivist must determine that the  
22 record or group of records will more likely than  
23 not enhance, enrich, and broaden the historical  
24 record of the life and death of Tupac Amaru  
25 Shakur.

(B) A Notice of Related Record Designation (NRRD) shall be the mechanism for the Archivist to announce publicly its determination that a record or group of records meets the definition of related records.

(4) POSTPONEMENT.—

(A) The Archivist shall consider and render decisions on a recommendation by a Government office under section 6(e)(2) to postpone the public disclosure of a related record. In carrying out this subparagraph, the Archivist shall—

(i) consider and render decisions on whether a record constitutes a related record;

(ii) consider and render decisions on whether a related record or particular information in a record qualifies for postponement of disclosure under this Act; and

(iii) in the case of a related record that qualifies for such postponement, set specific conditions and dates for public disclosure of the record, related to events or specific dates when the reasons for postponement will end.

1           (B) A related record shall be released in its  
2           entirety except for portions specifically post-  
3           poned pursuant to the grounds for postpone-  
4           ment of public disclosure of records established  
5           in section 7(a), and no portion of any related  
6           record shall be withheld from public disclosure  
7           solely on grounds of non-relevance unless, in  
8           the Archivist's sole discretion, release of a part  
9           of a record is sufficient to comply with the in-  
10          tent and purposes of this Act.

11          (C) In approving postponement of public  
12          disclosure of a related record, the Archivist  
13          shall seek to—

14               (i) provide for the disclosure of seg-  
15               regable parts, substitutes, or summaries of  
16               such a record; and

17               (ii) determine, in consultation with  
18               the originating body and consistent with  
19               the standards for postponement under this  
20               Act, which of the following alternative  
21               forms of disclosure shall be made by the  
22               originating body:

23                       (I) Any reasonably segregable  
24                       particular information in a related  
25                       record.

1 (II) A substitute record for that  
2 information which is postponed.

3 (III) A summary of a related  
4 record.

5 (5) NOTICE.—

6 (A) IN GENERAL.—After a decision by the  
7 Archivist under paragraph (4) that a related  
8 record shall be publicly disclosed in the Collec-  
9 tion or postponed for disclosure and held in the  
10 protected Collection, the Archivist shall notify  
11 the head of the originating body of the decision,  
12 publish a copy of the decision in the Federal  
13 Register within 14 days after the decision is  
14 made, and provide that the decision is search-  
15 able electronically.

16 (B) CONTEMPORANEOUS NOTICE TO EXEC-  
17 UTIVE AND LEGISLATIVE BRANCHES.—Contem-  
18 poraneous notice shall be made to the President  
19 for Archivist decisions regarding executive  
20 branch related records, and to the oversight  
21 committees specified in subsection (i) in the  
22 case of legislative branch records. Such notice  
23 shall contain a written unclassified justification  
24 for public disclosure or postponement of disclo-

1           sure, including an explanation of the application  
2           of standards contained in section 7.

3       (d) PRESIDENTIAL AUTHORITY OVER ARCHIVIST  
4 DETERMINATION.—

5           (1) PUBLIC DISCLOSURE OR POSTPONEMENT  
6       OF DISCLOSURE.—After the Archivist has made a  
7       formal decision concerning the public disclosure or  
8       postponement of disclosure of an executive branch  
9       related record or information within such a record,  
10      or of any information contained in a related record,  
11      obtained or developed solely within the executive  
12      branch, and upon a written appeal to the President  
13      by the originating agency, the Citizens Advisory  
14      Committee, or third agency within 30 days after  
15      such decision, the President shall have the sole and  
16      non-delegable authority to require the disclosure or  
17      postponement of such record or information under  
18      the standards set forth in section 7, and the Presi-  
19      dent shall provide the Archivist with an unclassified  
20      written certification specifying the President’s deci-  
21      sion within 30 days after the Archivist’s decision  
22      and notice to the executive branch agency as re-  
23      quired under this Act, stating the justification for  
24      the President’s decision, including the applicable  
25      grounds for postponement under section 7, accom-



panied by a copy of the identification aid required under section 6. If, after 30 days, the President has not transmitted such written certification to the Archivist, the Archivist may proceed according to the previous formal decision.

(2) ANNUAL REVIEW.—Any executive branch related record postponed by the President shall be subject to the requirements of annual review, downgrading and declassification of classified information, and public disclosure of the collection set forth in section 7(c).

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Archivist shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of related records and provide that such copies are searchable electronically.

(e) NOTICE TO PUBLIC.—

(1) REPORT REQUIREMENT.—Every 30 days, the Archivist shall submit to the committees described in paragraph (2) and publish in the Federal Register a report on related records or particular information in related records the public disclosure of which is postponed by the Archivist under subsection

1 (c) or by the President under subsection (d) during  
2 the preceding 30 days. With respect to each such  
3 record, the report shall contain—

4 (A) a description of the subject of the  
5 record, the originating agency, the length or  
6 other physical description of the record, and  
7 each ground for postponement that is relied  
8 upon, and provide that the notice is searchable  
9 electronically.

10 (B) a description of actions by the Archi-  
11 vist, the originating agency, the President, or  
12 any Government office with respect to the re-  
13 lated record (including a justification of each  
14 ground for postponement of the record or part  
15 of the record) and of any official proceedings  
16 conducted by the Archivist with regard to the  
17 record or part of the record; and

18 (C) a statement of the specific conditions  
19 and dates for the public disclosure of the record  
20 as set by the Archivist under subsection  
21 (c)(4)(A)(iii).

22 (2) COMMITTEES DESCRIBED.—The committees  
23 described in this paragraph are the Committee on  
24 Government Reform of the House of Representa-  
25 tives, the Committee on Homeland Security and

1 Governmental Affairs of the Senate, and the Citi-  
2 zens Advisory Committee.

3 (3) DEADLINE.—The first report required by  
4 paragraph (1) shall be submitted and published not  
5 later than the date that is 60 calendar days after  
6 the date on which the Archivist first approves the  
7 postponement of disclosure of a related record.

8 (4) ELECTRONIC SEARCHABILITY.—The Archi-  
9 vist shall ensure that the report required by this  
10 subsection is searchable electronically.

11 (f) REPORTS BY THE ARCHIVIST.—

12 (1) IN GENERAL.—The Archivist shall report  
13 the activities of the Archivist under this Act to the  
14 leadership of Congress, the Committee on Govern-  
15 ment Reform of the House of Representatives, the  
16 Committee on Homeland Security and Governmental  
17 Affairs of the Senate, the President, the head of any  
18 Government office whose records have been the sub-  
19 ject of Archivist activity, and the Citizens Advisory  
20 Committee.

21 (2) ANNUAL REPORTS.—The first report under  
22 this subsection shall be issued on the date that is 1  
23 year after the date of enactment of this Act, and  
24 subsequent reports shall be issued every 12 months

1       thereafter until termination of activities of the Ar-  
2       chivist under this Act pursuant to section 8(g).

3               (3) MATTERS COVERED.—A report under para-  
4       graph (2) shall include the following information:

5               (A) A financial report of the expenses for  
6       all official activities and requirements of the  
7       National Archives and its personnel.

8               (B) The progress made on review, trans-  
9       mission to the Archivist, and public disclosure  
10      of related records.

11              (C) The estimated time and volume of re-  
12      lated records involved in the completion of the  
13      Archivist's performance under this Act.

14              (D) Any special problems, including re-  
15      quests and the level of cooperation of Govern-  
16      ment offices, with regard to the ability of the  
17      Archivist to operate as required by this Act.

18              (E) A record of review activities, including  
19      a record of postponement decisions by the Ar-  
20      chivist or other related actions authorized by  
21      this Act, and a record of the volume of records  
22      reviewed and postponed.

23              (F) Suggestions and requests to Congress  
24      for additional legislative authority needs.

1           (G) An appendix containing copies of re-  
2           ports of postponed records to the Archivist re-  
3           quired under section 7(c)(3) made since the  
4           date of the preceding report under this sub-  
5           section.

6           (H) Any recommendations made by the  
7           Citizens Advisory Committee.

8           (I) Any recommendations of the Archivist.

9           (g) NOTICE OF TERMINATION OF ACTIVITIES UNDER  
10          THIS ACT.—At least 90 calendar days before completing  
11          activities required under this Act and submitting the cer-  
12          tification under subsection (h), the Archivist shall provide  
13          written notice to the President and Congress of the Archi-  
14          vist’s intention to terminate activities under this Act at  
15          a specified date.

16          (h) CERTIFICATION OF COMPLETION OF ARCHIVIST  
17          ACTIVITIES UNDER THIS ACT.—Upon completing activi-  
18          ties required under this Act, including collecting related  
19          records, reviewing related records, and releasing or post-  
20          poning related records, the Archivist shall submit to the  
21          President and Congress a written certification that the ac-  
22          tivities of the Archivist are complete under this Act.

23          (i) OVERSIGHT.—The Committee on Government Re-  
24          form of the House of Representatives and the Committee  
25          on Homeland Security and Governmental Affairs of the

1 Senate shall have continuing oversight jurisdiction with re-  
2 spect to the official conduct of the Archivist and the Citi-  
3 zens Advisory Committee, and the disposition of postponed  
4 or newly discovered records after termination of activities  
5 of the Archivist under this Act pursuant to section 8(g)),  
6 and shall conduct periodic hearings on the conduct of the  
7 Archivist and the Citizens Advisory Committee not less  
8 than every year for a period ending 3 years after the date  
9 of the enactment of this Act.

10 **SEC. 9. DISCLOSURE OF MATERIALS UNDER SEAL OF**  
11 **COURT.**

12 (a) REQUESTS TO ATTORNEY GENERAL.—

13 (1) REQUESTS FOR INFORMATION OR EVIDENCE  
14 UNDER SEAL.—The Archivist may request the Attor-  
15 ney General—

16 (A) to petition any court in the United  
17 States or abroad to release any information or  
18 physical evidence relevant to the life or death of  
19 Tupac Amaru Shakur that is held under seal of  
20 the court; or

21 (B) to subpoena any such information or  
22 evidence if such information or evidence is no  
23 longer in the possession of the Government.

24 (2) REQUESTS FOR INFORMATION UNDER IN-  
25 JUNCTION OF SECRECY OF A GRAND JURY.—

1           (A) The Archivist may request the Attor-  
2           ney General to petition any court in the United  
3           States to release any information relevant to  
4           the life or death of Tupac Amaru Shakur that  
5           is held under the injunction of secrecy of a  
6           grand jury.

7           (B) A request for disclosure of related ma-  
8           terials under this Act shall be deemed to con-  
9           stitute a showing of particularized need under  
10          Rule 6 of the Federal Rules of Criminal Proce-  
11          dure.

12       (b) SENSE OF CONGRESS.—It is the sense of the  
13 Congress that—

14           (1) the Attorney General should assist the Ar-  
15           chivist in good faith to unseal any records that the  
16           Archivist determines to be relevant and held under  
17           seal by a court or under the injunction of secrecy of  
18           a grand jury;

19           (2) the Secretary of State should contact any  
20           other foreign government that may hold information  
21           relevant to the life and death of Tupac Amaru  
22           Shakur to seek the disclosure of such information,  
23           and report on progress on these matters to the Ar-  
24           chivist in a timely fashion; and

1           (3) all Executive agencies should cooperate in  
2           full with the Archivist to seek the disclosure of all  
3           information relevant to the life and death of Tupac  
4           Amaru Shakur, consistent with the public interest.

5   **SEC. 10. PRIVATE RIGHT OF ACTION.**

6           (a) IN GENERAL.—Any person who is aggrieved by  
7           a violation of this Act may bring a civil action in an appro-  
8           priate district court for declaratory or injunctive relief  
9           with respect to the violation.

10          (b) ATTORNEY’S FEES.—In a civil action under this  
11          section, the court may allow the prevailing party (other  
12          than the United States) reasonable attorney fees, includ-  
13          ing litigation expenses, and costs.

14   **SEC. 11. RULES OF CONSTRUCTION.**

15          (a) PRECEDENCE OVER OTHER LAW.—When this  
16          Act requires transmission of a record to the Archivist or  
17          public disclosure, it shall take precedence over any other  
18          law (except section 6103 of the Internal Revenue Code),  
19          judicial decision construing such law, or common law doc-  
20          trine that would otherwise prohibit such transmission or  
21          disclosure.

22          (b) FREEDOM OF INFORMATION ACT.—Nothing in  
23          this Act shall be construed to eliminate or limit any right  
24          to file requests with any executive agency or seek judicial  
25          review of the decisions pursuant to section 552 of title 5,



1 United States Code, except that any related record discov-  
2 ered after termination of activities of the Archivist under  
3 this Act pursuant to section 8(g) shall be considered for  
4 postponement or public disclosure under the standards of  
5 this Act, not such section 552.

6 (c) JUDICIAL REVIEW.—Nothing in this Act shall be  
7 construed to preclude judicial review, under chapter 7 of  
8 title 5, United States Code, of final actions taken or re-  
9 quired to be taken under this Act.

10 (d) EXISTING AUTHORITY.—Nothing in this Act re-  
11 vokes or limits the existing authority of the President, any  
12 executive agency, the Senate, or the House of Representa-  
13 tives, or any other entity of the Government to publicly  
14 disclose records in its possession.

15 (e) RULES OF THE SENATE AND HOUSE OF REP-  
16 RESENTATIVES.—To the extent that any provision of this  
17 Act establishes a procedure to be followed in the Senate  
18 or the House of Representatives, such provision is adopt-  
19 ed—

20 (1) as an exercise of the rulemaking power of  
21 the Senate and House of Representatives, respec-  
22 tively, and is deemed to be part of the rules of each  
23 House, respectively, but applicable only with respect  
24 to the procedure to be followed in that House, and

1       it supersedes other rules only to the extent that it  
2       is inconsistent with such rules; and

3           (2) with full recognition of the constitutional  
4       right of either House to change the rules (so far as  
5       they relate to the procedure of that House) at any  
6       time, in the same manner, and to the same extent  
7       as in the case of any other rule of that House.

8   **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

9       There are authorized to be appropriated such sums  
10   as are necessary to carry out this Act, to remain available  
11   until expended.

12   **SEC. 13. RECORDS PENDING.**

13       Upon termination of activities of the Archivist under  
14   this Act pursuant to section 8(g), all records that are still  
15   pending postponement determinations shall be presumed  
16   to be available for release to the public. Any related record  
17   discovered in the possession of any Government agency or  
18   entity after termination of such activities shall be released  
19   to the Archivist for public disclosure under the provisions  
20   of this Act.

21   **SEC. 14. WHISTLEBLOWER PROTECTION.**

22       All members of the staff of the National Archives,  
23   the Archivist, and all Federal agencies covered under this  
24   Act shall treat relevant employees in accordance with the  
25   provisions of chapter 23 of title 5, United States Code,

1 prohibiting certain personnel practices (commonly referred  
2 to as whistleblower protection provisions), particularly re-  
3 lating to the disclosure of improper document retention,  
4 release, and disclosure.

5 **SEC. 15. SEVERABILITY.**

6 If any provision of this Act or the application thereof  
7 to any person or circumstance is held invalid, the remain-  
8 der of this Act and the application of that provision to  
9 other persons not similarly situated or to other cir-  
10 cumstances shall not be affected by the invalidation.

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